BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

RODGER N. HOWARD Claimant	
VS.	Dooket No. 209 002
DON VAUGHN, INC.	Docket No. 208,092
Respondent)	
FARMINGTON CASUALTY COMPANY AETNA CASUALTY & SURETY COMPANY Insurance Carrier	

ORDER

Claimant appeals from a preliminary hearing Order entered by Administrative Law Judge Shannon S. Krysl on February 6, 1996.

ISSUES

The Administrative Law Judge denied claimant's application for temporary total disability and medical benefits on the grounds that claimant failed to give notice within ten days from the date of accident as required by K.S.A. 44-520 and failed to show just cause for failure to give timely notice.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Appeals Board finds that the appealed Order should be affirmed. Claimant was injured on September 11, 1995 while carrying pipe up onto scaffolding. He continued to work until September 25, 1995 when he went home because the pain rendered him unable to continue. Claimant saw Dr. Mills on September 27 and attempted to come back to work with restrictions. He told his employer at that time that it was not work related. Claimant did not notify his employer of his accident or that he considered the injury to be work related until December 4, 1995. The Appeals Board finds no indication that the claimant suffered additional injury after September 11, 1995. The notice on December 4, 1995 was, therefore, beyond the 75-day limit established by K.S.A. 44-520. The Appeals Board, therefore, finds the application for benefits should be denied.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order of Administrative Law Judge Shannon S. Krysl dated February 6, 1996, should be, and the same is hereby, affirmed.

IT IS SO ORDERED.
Dated this day of April 1996.
BOARD MEMBER
BOARD MEMBER
BOARD MEMBER
Chris A Clements Wichita KS

c: Chris A. Clements, Wichita, KS Gregory D. Worth, Lenexa, KS Shannon S. Krysl, Administrative Law Judge Philip S. Harness, Director